

**REISSUE APPLICATION DECLARATION BY THE INVENTOR**

Docket Number (Optional)

9241.03

I hereby declare that:

Each inventor's residence, mailing address and citizenship are stated below next to their name.

I believe the inventors named below to be the original and first inventor(s) of the subject matter which is described and claimed in patent number 6,370,715, granted Apr. 16, 2002 and for which a reissue patent is sought on the invention entitled Portable Infant Bed,

the specification of which

☒ is attached hereto.☐ was filed on \_\_\_\_\_ as reissue application number \_\_\_\_\_and was amended on \_\_\_\_\_  
(If applicable)

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

☐ I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b). Attached is form PTO/SB/02B (or equivalent) listing the foreign applications.

I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. (Check all boxes that apply.)

☐ by reason of a defective specification or drawing.☒ by reason of the patentee claiming more or less than he had the right to claim in the patent.☐ by reason of other errors.

At least one error upon which reissue is based is described below. If the reissue is a broadening reissue, such must be stated with an explanation as to the nature of the broadening:

Claim 2 was issued as depending from Claim 1, but should have been issued in independent form because it does not further limit the subject matter of Claim 1. A claim which is in independent form but which is so worded that it does not in fact include every limitation of the claim on which it depends is normally objected to and must either be cancelled or replaced with an independent claim. This did not occur during prosecution. Claim 1 refers to a support unit having a base panel with detachable side walls and a detachable end wall and Claim 2 refers to the base panel, side walls and end wall as an integrated unit. Because the limitation that the panels be integrated is not an additional limitation to Claim 1, Claim 2 should have been issued in independent form. This error is cured by reissuing Claim 2 in a broader independent form directed to the integrated unit. The same applies to Claim 9 which depends from Claim 8.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.175. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

(REISSUE APPLICATION DECLARATION BY THE INVENTOR, page 2)

Docket Number (Optional)  
9241.03

All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant.

Note: To appoint a power of attorney, use form PTO/SB/81.

Correspondence Address: Direct all communications about the application to:



☒ Customer Number:

25265

PATENT TRADEMARK OFFICE

OR

☐ Firm or  
Individual Name

Address

Address

City

State

Zip

Country

Telephone

Fax

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Full name of sole or first inventor (given name, family name)

Farah D. Morton

Inventor's signature

Date

November 10, 2003

Residence

Lodi, California

Citizenship

USA

Mailing Address

P.O. Box 716, Woodbridge, CA 95258

Full name of second joint inventor (given name, family name)

Inventor's signature

Date

Residence

Citizenship

Mailing Address

Full name of third joint inventor (given name, family name)

Inventor's signature

Date

Residence

Citizenship

Mailing Address

☐ Additional joint inventors or legal representative(s) are named on separately numbered sheets forms PTO/SB/02A or 02LR attached hereto.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**POWER OF ATTORNEY  
and  
CORRESPONDENCE ADDRESS  
INDICATION FORM**

Application Number	
Filing Date	
First Named Inventor	Morton, Farah
Title	Portable Infant Bed
Art Unit	
Examiner Name	
Attorney Docket Number	9241.00

I hereby appoint:

☒ Practitioners at Customer Number:


OR

☐ Practitioner(s) named below:

25265

PATENT TRADEMARK OFFICE

Name	Registration Number
Mark D. Miller	32277

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please recognize or change the correspondence address for the above-identified application to:

☒ The above-mentioned Customer Number:

OR

☐ The address associated with Customer Number:

OR

<input checked="" type="checkbox"/> Firm or Individual Name	Mark D. Miller				
Address	Kimble, MacMichael & Upton				
Address	5260 N. Palm Ave., Ste. 221				
City	Fresno	State	CA	Zip	93704
Country	USA				
Telephone	(559) 435-5500	Fax	(559) 435-1500		

I am the:

☒ Applicant/Inventor.

☐ Assignee of record of the entire interest. See 37 CFR 3.71.  
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

## SIGNATURE of Applicant or Assignee of Record

Name	Farah D. Morton				
Signature					
Date	October xxxxx 2003	November 10, 2003	Telephone	(877) 810-9350	

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.31 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2

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5 Telephone: (559) 435-5500  
Facsimile: (559) 435-1500  
6

Attorneys for Plaintiffs FARAH D. MORTON  
7 and BABY DELIGHT, INC.

**ORIGINAL  
FILED**

NOV 10 2003

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY \_\_\_\_\_  
DEPUTY CLERK

8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
10 SACRAMENTO DIVISION  
11

\* \* \*

**CIV.S- 03-2339 MCE DAD**

12 FARAH D. MORTON, an individual, and )  
13 BABY DELIGHT, INC., a California )  
corporation, )  
14

Plaintiffs, )  
15 )  
16 v. )

17 THE FIRST YEARS, INC., a )  
Massachusetts corporation, )  
18 )

Defendant. )  
19

Case No.

**COMPLAINT FOR PATENT  
INFRINGEMENT AND DEMAND  
FOR JURY TRIAL**

Action Filed:  
Trial Date: TBD

20 Plaintiff Farah D. Morton ("Farah Morton") and Baby Delight, Inc. ("BDI"),  
21 collectively Plaintiffs, for their complaint against defendant The First Years, Inc. ("First Years"),  
22 alleges as follows:

23 **NATURE OF THE ACTION**

24 1. This is an action for patent infringement arising under the patent laws of  
25 the United States, Title 35 United States Code.

26 2. Plaintiffs seek injunctive relief and damages for acts of patent  
27 infringement by Defendant as a result of Defendant's unauthorized manufacture, use, sale and/or

1 offering for sale certain products covered by U.S. Patent No. 6,370,715 ("the '715 Patent"). A  
2 copy of the '715 Patent is attached hereto as its Exhibit A and is incorporated herein by  
3 reference.

4 **PARTIES**

5 3. Plaintiff Farah Morton is an individual who at all times relevant here was  
6 and is domiciled in Lodi, San Joaquin County, California.

7 4. Plaintiff BDI is a California corporation organized and existing under the  
8 laws of the State of California, with its principal place of business in Lodi, San Joaquin County,  
9 California.

10 5. Plaintiffs are informed and believe that First Years is a Massachusetts  
11 corporation organized and existing under the laws of the State of Massachusetts. Plaintiffs are  
12 informed and believe that First Years is qualified to do business in California under the name  
13 Massachusetts First Years, Inc., and has a registered agent for service of process in California.  
14 Plaintiffs are informed and believe that Defendant, also formerly known as Kiddie Products, Inc.,  
15 has been continuously qualified to do business in California since 1992. Plaintiffs are further  
16 informed and believe that First Years product lines are available for purchase at retail  
17 establishments physically located in California, including but not limited to in this District and  
18 that Defendant has advertised and promoted a product covered by one or more claims of the '715  
19 Patent under the name "Close and Secure Sleeper" ("the Accused Product") to said retail  
20 establishments and intends to sell the Accused Product within this District.

21 **JURISDICTION AND VENUE**

22 6. This Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331  
23 and 1338.

24 7. Defendant is subject to personal jurisdiction within the State of California  
25 based upon its substantial and/or continuous and systematic contacts with the State of California,  
26 including but not limited to its sale of products throughout the State and this District,  
27 qualification to do business here and registered agent for service of process, and because it has

1 purposely directed advertising and promotion for sale of the Accused Product, as well as its  
2 many other products to businesses located in California, including in this District.

3 8. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b)  
4 because First Years "resides" in this District for purposes of Section 1400(b) in that it is subject  
5 to personal jurisdiction in this District at the time of commencement of this action.

6 **PATENT INFRINGEMENT**

7 9. Plaintiffs incorporate herein by reference all of the allegations of  
8 paragraphs 1 through 8, inclusive, of this complaint as though the same were fully set forth  
9 herein.

10 10. On April 16, 2002, the '715 Patent was duly and legally issued to Farah  
11 Morton for an invention entitled "Portable Infant Bed." The '715 Patent is valid and subsisting.

12 11. On or about April 16, 2002, by consent of Farah Morton, BDI became the  
13 exclusive distributor of products based upon the '715 Patent. Farah Morton has granted BDI the  
14 exclusive right to manufacture, use, sell and/or offer to sell products covered by the '715 Patent.

15 12. Defendant has infringed and continues to infringe upon the '715 Patent by  
16 making, using, offering for sale and/or selling the Accused Product without authorization from  
17 Plaintiffs, and will continue to do so unless enjoined by this Court. Plaintiffs will be irreparably  
18 harmed unless such infringement is enjoined. Plaintiffs have no adequate remedy at law.

19 13. Plaintiffs are informed and believe that Defendant has had actual and/or  
20 constructive notice of the '715 Patent from at least May of 2003 and perhaps sooner and that in  
21 any event, by service of this complaint, Defendant has actual notice of its infringement upon the  
22 '715 Patent. Defendant's infringement, as described herein, has been willful and deliberate.

23 14. As a direct and proximate result of Defendant's acts of infringement,  
24 Plaintiffs have suffered damages pursuant to 35 U.S.C. § 284 in an amount to be proven at trial.  
25 Defendant's past and continuing infringement of the '715 Patent has been deliberate and willful  
26 and warrants an award of treble damages pursuant to 35 U.S.C. § 284. Furthermore, such

27 ///

1 conduct makes this an exceptional case and warrants an award of attorneys' fees in accordance  
2 with 35 U.S.C. § 285.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

- 5 1. that United States Patent No. 6,370,715 be adjudged and decreed valid;
- 6 2. that Defendant be adjudged and decreed to have infringed United States  
7 Patent No. 6,370,715;
- 8 3. for a preliminary and permanent injunction restraining and enjoining  
9 Defendant, its servants, agents, employees, distributors, customers and any and all persons acting  
10 in concert or participating with it from infringing either directly, contributorily or by inducing  
11 infringement of United States Patent No. 6,370,715;
- 12 4. for an accounting of all profits received by Defendant as a result of its  
13 infringement of United States Patent No. 6,370,715;
- 14 5. for damages according to proof, including, without limitation, actual  
15 damages, reasonable royalties and treble damages by reason of Defendant's infringement of  
16 United States Patent No. 6,370,715;
- 17 6. that this case be decreed an "exceptional case" within the meaning of 35  
18 U.S.C. § 285, and for reasonable attorneys' fees and expert witness fees and costs to be awarded  
19 to Plaintiffs;
- 20 7. for award of prejudgment and post-judgment interest to Plaintiffs, as  
21 provided by law;
- 22 8. for costs of suit incurred herein by Plaintiffs; and

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1           9.       for such other and further relief as the Court may deem just and proper.  
2       Dated: November 7, 2003.

3                   KIMBLE, MacMICHAEL & UPTON  
4                   A Professional Corporation

5                   By Robert W. Branch

6                   ROBERT W. BRANCH  
7                   Attorney for Plaintiffs  
8                   FARAH D. MORTON and  
9                   BABY DELIGHT, INC.



1 DEMAND FOR TRIAL BY JURY

2 Pursuant to Rule 38 of the Federal Rules of Civil Procedure and the Seventh  
3 Amendment to the Constitution of the United States, plaintiffs Farah Morton and Baby Delight,  
4 Inc. hereby demand a trial by jury on all issues so triable.

5 Dated: November 7, 2003.

6 KIMBLE, MacMICHAEL & UPTON  
7 A Professional Corporation

8 By Robert W. Branch  
9 ROBERT W. BRANCH  
10 Attorney for Plaintiffs  
11 FARAH D. MORTON and  
12 BABY DELIGHT, INC.  
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